

GAO

Testimony

Before the Subcommittee on Trade
Committee on Ways and Means
House of Representatives

For Release on Delivery
Expected at
10:00 a.m. EST
Tuesday
March 11, 1997

U.S. CUSTOMS SERVICE

Varied Reaction to the Labor-Management Partnership Concept

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U.S. Customs Service: Varied Reaction to the Labor-Management Partnership Concept

Executive Order 12871, October 1, 1993, required the head of each federal agency to create labor-management councils to help involve employees and their unions as full partners. These partnership councils are to identify problems and craft solutions to better serve the agency's customers and accomplish its mission. In June 1994, the U.S. Customs Service and the National Treasury Employees Union (NTEU) entered into a partnership agreement that established 19 goals, set up a National Partnership Council, and stated that NTEU will participate in agency operational meetings and groups to ensure NTEU involvement in decisions that affect the workforce. In February 1997, Customs and NTEU implemented a new national contract.

GAO's limited work to date at Customs headquarters and selected field locations revealed a variety of opinions regarding Customs-NTEU relations since implementation of the executive order. Most of the Customs managers GAO interviewed characterized their relationship with NTEU chapters as better. Most of the NTEU chapter presidents GAO spoke with also said the relationship was better. The views of the Customs first-line supervisors GAO interviewed were more evenly distributed among the range of responses from "much better" to "much worse." Customs managers and supervisors and NTEU representatives provided similar comments identifying advantages of the partnership concept, including (1) faster problem resolution, (2) improved communications, and (3) mutual involvement in decisions. Comments on disadvantages revealed no clearly shared views.

To a limited extent, Customs has begun to evaluate the results of the new relationship. However, these efforts have not set the groundwork for the kind of comprehensive evaluation envisioned by the executive order and partnership agreement. Although the Commissioner expects it to take at least 5 years for the new relationship to become Customs' normal operating environment, it is not too soon to develop a formal plan for an evaluation and to share this plan with the Subcommittee. This plan should address several critical questions, such as the performance measures to be used and how often an evaluation should be conducted.

U.S. Customs Service: Varied Reaction to the Labor-Management Partnership Concept

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss labor-management activities within the U.S. Customs Service. The Subcommittee asked us to review, among other topics, the history of union activity at Customs and the effect that the partnership agreement between Customs and the National Treasury Employees Union (NTEU)—the exclusive representative of Customs' bargaining unit employees—had on Customs' ability to establish and achieve its mission-related goals. To date, we have performed preliminary work at Customs headquarters, 5 Customs Management Centers (CMC), 11 ports of entry around the country, the NTEU national office, and 7 local NTEU chapters (see the appendix for a list of the CMCS, NTEU chapters, and ports we visited). My testimony will cover information we have obtained on the new relationship between Customs and NTEU; Customs' management, supervisors, and NTEU views concerning the relationship; and our observations on evaluating this relationship.

We judgmentally selected the ports for our review focusing on the southern border and those ports where Customs headquarters officials told us that labor-management relations were strong and effective and where there were less effective relationships. At these locations, we interviewed Customs managers and first-line supervisors as well as NTEU chapter presidents and representatives. We asked a series of questions designed to gauge the extent of respondents' satisfaction with and identify their views on the advantages and disadvantages of the new relationship. The information provided represents the views and opinions of only the Customs officials and NTEU representatives we interviewed; it is not statistically projectable to the entire Customs Service.

Background

The Customs Service is responsible for ensuring that all goods and persons entering and exiting the United States do so in accordance with all U.S. laws and regulations. As of January 1997, Customs' workforce included about 19,500 personnel, approximately 11,200 of whom were eligible to join NTEU. Approximately 7,200 (65 percent) of those eligible to join NTEU had done so.

In September 1994, Customs' report, People, Processes and Partnerships, provided a blueprint of its plans to transform itself into an agency prepared to meet the demands of the 21st Century. The report proposed in general terms the agency's vision and a three-part process to achieve this

vision: (1) organizational change, (2) reengineered business processes, and (3) cultural conversion.

Customs has made progress in implementing its reorganization plan. Two years ago we reported¹ that Customs had started to downsize its headquarters and was planning to close its 7 regional offices and 42 district offices, replacing them with 20 CMCS. Many functions formerly performed by the regions and districts, such as hiring and assessing fines and penalties on companies violating trade laws, were to be transferred to the ports. CMC and port directors we spoke with told us that the transition of responsibility to the ports was proceeding as planned. Customs was also proceeding with the redesign and development of performance standards for its core business processes.

One element of Customs' process to achieve its vision is its plan to change its culture, including its relationship with NTEU. According to its September 1994 report, Customs has historically been characterized by divisive internal competition, highly visible turf battles with other agencies, a controlling management style, and an adversarial relationship with its employee union. To help change this relationship, Customs and NTEU created a labor-management partnership.

The New Labor-Management Partnership: How It Came About and What It Is

On October 1, 1993, the President issued Executive Order 12871, which called for creating cooperative labor-management relations throughout the federal government and setting up a national council to promote partnership. The Order required the head of each agency to create labor-management councils at appropriate levels to help involve employees and their union representatives as full partners with management representatives to identify problems and craft solutions to better serve the agency's customers and accomplish its mission. The Order further required agencies to bargain with unions on issues formerly bargained on only at the agency's discretion. These issues include "numbers, types and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work." It also called for agencies to evaluate the progress and improvements in organizational performance resulting from the labor-management partnerships.

¹Customs Management: Status of Reorganization and Modernization Efforts (GAO/T-GGD/AIMD-95-70 Jan. 30, 1995).

In June 1994, Customs and NTEU entered into a partnership agreement that established 19 specific goals. These include involving employees (through NTEU) before final decisions are made and managing conflict to settle or resolve disputes faster. The agreement established a National Partnership Council at Customs Headquarters as well as local partnership councils at CMCS and ports. The partnership agreement states that NTEU will participate in agency operational meetings and groups to ensure NTEU involvement in decisions that affect the workforce. NTEU may also appoint representatives to all task forces and groups formed by Customs for the purpose of improving or changing work processes and procedures.

In February 1997, Customs and NTEU implemented a new National Agreement.² Key provisions in the new agreement include (1) alternative dispute resolution procedures that attempt to resolve conflicts informally at the lowest level possible to replace the old grievance procedures; (2) involvement of NTEU as an observer in the promotion process; and (3) nine new issues to be negotiated locally, such as uniforms and a pilot alternative work schedule program.

Management and NTEU Views Regarding Partnership Relations

Our limited work at Customs and NTEU headquarters, 5 CMCS, 7 NTEU chapters, and 11 ports of entry revealed a variety of opinions regarding Customs-NTEU relations since the partnership concept had begun. When asked to compare NTEU-management relations at the time of our visits with the relationships before the partnership agreement, CMC directors we interviewed characterized the relationship with the seven NTEU chapters as better than before partnership with five, about the same with one, and worse with one.³ Six of the seven NTEU chapter presidents also said that the relationship was better than before partnership; one chapter president said that the relationship was worse. In addition, 7 of the 11 port directors characterized the relationship with NTEU chapters as better than before, 2 said it was about the same, and 2 said it was much worse.

In addition to interviewing Customs management officials and NTEU representatives, we asked 55 first-line Customs supervisors at the 11 ports we visited how they would characterize the relationships at the time of our visits between management and NTEU at their ports compared to the

²This agreement, also known as the "contract", replaced the prior labor-management agreement dated May 19, 1991. As distinguished from the partnership agreement and the 19 goals, the contract sets out 44 articles governing items such as travel, attire and appearance, adverse actions, and arbitration.

³Three CMC directors work with one NTEU chapter each, and two CMCS work with two NTEU chapters each.

relationships before the partnership agreement. Their views were more evenly distributed among the range of responses from much better to much worse than were those of the Customs managers and NTEU chapter presidents.⁴ One supervisor told us that labor-management relations were 100-percent better now and that problems were handled informally at the supervisor-subordinate level with less confrontation. Another supervisor stated that in his 22 years with the Customs Service, he had never seen better management-labor relations. On the other hand, several supervisors described the management-NTEU relationship under the partnership concept as “us against them.” One supervisor told us that implementation is one-sided. Another supervisor stated that NTEU does not compromise unless it is to its advantage.

Our limited work also identified a variety of views from managers, supervisors, and NTEU representatives regarding the advantages and disadvantages of the partnership concept. While our results cannot be generalized to all of Customs, they can be summarized and characterized in terms of the managers, supervisors, and NTEU representatives we interviewed at the locations we visited.

A few clearly shared views emerged. Managers, supervisors, and NTEU representatives provided similar comments identifying advantages of the partnership concept. They generally stated that the concept has resulted in

- faster resolution of problems;
- a reduction in the number of grievances filed;
- improved communications between management and the union; and
- mutual involvement in decisions.

NTEU representatives we interviewed believed that these factors had contributed to improved operational efficiency at the Customs Service.

Our analysis of the comments about the disadvantages of the partnership concept and how it was being implemented at the ports we visited did not show any clearly shared views. While individual managers, supervisors, and NTEU representatives told us that some managers did not understand the concept of partnership, the underlying reasons differed significantly. Managers and supervisors generally stated that

⁴Fifteen percent said it was much better, 29 percent said it was better, 33 percent said it was about the same, 11 percent said it was worse, 9 percent said it was much worse, and 4 percent had no basis to judge.

- all issues must be bargained with the union before any action can be taken by management;⁵
- the partnership concept requires too many meetings and too much of management's time;
- while managers remain accountable for actions and results at their ports, there is no union accountability; and
- the union will only bargain on issues that address union interests and not on those that address the needs of the Customs Service.

NTEU officials generally raised the following concerns:

- the partnership concept is not clearly understood by management; managers want to choose when they include NTEU in making decisions and when they do not;
- managers are not fully trained in the partnership concept; and
- managers do not want to involve union representatives in the decisionmaking process; they continue to want to make unilateral decisions.

GAO Observations on Evaluating Customs' and NTEU's Implementation of the Partnership Concept

In our January 1995 testimony on Customs' reorganization, we concluded that Customs' efforts to date had the potential to position Customs to meet its future challenges. We encouraged Customs to continue discussing both its progress and results with this Subcommittee. Among the issues we encouraged Customs to explore was identifying what indicators or measurements it should use to determine the success or effectiveness of the new relationship.

Customs' partnership agreement with NTEU and Executive Order 12871 call for evaluating the progress of and improvements in the agency's performance resulting from the partnership concept. To a limited extent, Customs has begun that effort.

A working group met in October 1995 to review and analyze data on partnership activities. The group questioned the accuracy of the information it had gathered and recommended that on-site surveys be conducted. In a memorandum to the Commissioner shortly after the working group report, the Assistant Commissioner for Human Resources Management concluded that Customs needed an effective way to monitor partnership performance.

⁵While this was a perception of some managers and supervisors, 5 U.S.C. 7101-35 contains specific provisions related to which issues are and are not bargainable.

In April 1996, the Commissioner and the President of NTEU jointly sent all Customs employees an "organizational climate survey" that included questions about the partnership concept. Customs has compiled and analyzed the results of that survey, and intends to use the data as a baseline against which to measure the results of future surveys.

However, neither of these efforts has set the groundwork for the kind of comprehensive evaluation envisioned by the Executive Order and partnership agreement. In our work thus far at Customs' headquarters and several field locations, we have not seen any plans for an evaluation of the impact of the partnership approach on Customs' mission.

Cultural changes such as those promised by the partnership concept do not occur quickly. The Commissioner told us that he expects it to take at least 5 years for partnership to become part of the normal operating environment throughout Customs. Nevertheless, given that Customs and NTEU have been in this new relationship for almost 3 years, it is not too soon to develop a formal plan for the evaluation of progress and improvements in organizational performance resulting from this labor-management partnership. Some of the critical questions to be answered include:

- What performance measures should be used?
- What factors in addition to the partnership concept may be affecting organizational performance?
- How often should an evaluation be conducted?
- Should the focus of an evaluation be at the national or the port level or both?

Developing a plan that addresses these questions will be difficult and will present Customs with significant challenges. It is reasonable for Customs and NTEU not to have completed any comprehensive evaluation at this point. However, it is also reasonable to expect that they would have begun developing and sharing with this Subcommittee their plan for carrying out that evaluation.

Mr. Chairman, this completes my statement. I would be pleased to answer any questions.

Field Locations Visited

Customs Management Centers	NTEU chapters ^a	Ports of entry ^b
South Pacific (Long Beach, California)	Chapter 111 (Los Angeles International Airport, California)	Los Angeles International Airport
	Chapter 103 (Los Angeles Harbor, California)	Los Angeles Harbor
Southern California (San Diego, California)	Chapter 105 (San Diego, California)	San Ysidro
	Chapter 123 (Calexico, California)	Otay Mesa Calexico
West Texas/New Mexico (El Paso, Texas)	Chapter 143 (El Paso, Texas)	El Paso
		Presidio
Arizona (Tucson, Arizona)	Chapter 116 (Nogales, Arizona)	Nogales
South Florida (Miami, Florida)	Chapter 137 (Miami, Florida)	Miami International Airport
		Miami Seaport
		Port Everglades

^aNTEU chapters that we visited represent bargaining unit employees at more ports than those we visited.

^bThe Port of Los Angeles includes the Los Angeles International Airport and the Los Angeles/Long Beach Harbor (Terminal Island). They are represented by two separate local NTEU Chapters—#111 and #103, respectively. We, therefore, treated them as two separate ports for this review.

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